

NO PROTEST RECEIVED  
Release copies to District  
Society Office in District

Date 1/27/97

Surname [REDACTED]

CP:E:EO:T:2

DEC 16 1996

Employer Identification Number: [REDACTED]  
Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

The information submitted indicates that you were incorporated in [REDACTED]. Your Articles of Incorporation state that your purpose, scope, and mission is

to disseminate information about the [REDACTED] movement through the use of Television, Radio, Newsletters and a Speakers Bureau.

In addition, the transaction of any or all lawful activities for which nonprofit corporations may be incorporated under [REDACTED]

Article VIII of your Charter provides further that "No dividends shall be paid and no part of the income or profit of the corporation shall be distributed to its members, directors, or officers, except for services actually rendered to the corporation, and except upon liquidation of its property in case of corporate dissolution."

[REDACTED]

You were founded by [REDACTED] who serves as your President. [REDACTED] has been involved in an interfaith coalition of religious leaders and supporters who oppose the acceptance and promotion of [REDACTED] as a healthy, normal alternative lifestyle for a number of years. He has spoken nationally on this topic at conferences and has previously hosted a radio talk show. According to the brochure you submitted, [REDACTED] also serves on the steering committee of the [REDACTED].

Your application indicates that [REDACTED] is the founder and creator of [REDACTED]. [REDACTED] is operated as one of your projects. You state that the [REDACTED] is a network of organizations, businesses, churches and individuals who support the preservation of the sacred institution of [REDACTED] and oppose the legalization of [REDACTED].

Pursuant to your by-laws, you are managed by a four person Board of Directors. Serving on your Board of Directors are your founder and president, [REDACTED], who serves as Secretary, along with [REDACTED], Vice President and [REDACTED] Treasurer.

You indicate in your application that you plan to further your purpose of disseminating information about the [REDACTED] movement in America through the following programs:

Television: You will air a program on public access stations to chronicle the [REDACTED] and to inform the public about the impact of the [REDACTED] on individuals and society. The programming will include interviews, analysis of news items, and special interest stories. You are still in the process of producing this show.

Radio: You will host a weekly talk show to educate people about the [REDACTED] and to give callers the opportunity to phone in with questions and comments. Your contract for broadcasting was cancelled in [REDACTED] and no new show is currently airing.

Speakers Bureau: You will make available speakers for civic/church groups, schools and others interested in becoming informed about the [REDACTED] and its goals, objectives and activities. The speakers bureau

[REDACTED]

has not been active although [REDACTED] has spoken individually at various events.

Newsletter: You publish a monthly newsletter, called [REDACTED], "that includes information about the [REDACTED] attempt to normalize [REDACTED] in America.

[REDACTED] is distributed free to members of the [REDACTED], the [REDACTED] and the main branch of the [REDACTED]. In addition, you have indicated that the newsletter is mailed to a list of supporters who are asked to make a \$15 donation per year. No donation is required to receive the newsletter, however, and one is sent to anyone making a request. Because publication of the newsletter has been your primary activity to date, we have analyzed them for a greater understanding of your purposes and activities.

In each newsletter we looked at, including the premier issue published in [REDACTED], the issue of [REDACTED] has appeared. By the publication of the [REDACTED], the issue of [REDACTED] predominated. In that [REDACTED] your President writes:

... [REDACTED] is definitely back in the headlines...

[REDACTED] reconvenes on [REDACTED]. If two-thirds of the representatives and senators can be persuaded to introduce and pass a constitutional amendment defining marriage as "the legal union between one man and one woman as husband and wife," [REDACTED] residents will be able to vote in [REDACTED] election whether they want to legalize [REDACTED] or not. ... Passage of the constitutional amendment seems to be the only way that will prevent [REDACTED] from becoming legalized.

How can you help? ... Read, photocopy, distribute and sign the [REDACTED]. We'd like as many organizations to support the resolution as possible.

The [REDACTED] contains:

\* [REDACTED] States Consider Ban on [REDACTED]

[REDACTED]

\* [REDACTED]

\* [REDACTED]

\* [REDACTED]

\* [REDACTED]

Your Presidents letter contains the following call to action:

I think the sleeping giant- the American people- is waking up and beginning to comprehend the ramifications of [REDACTED]. People are beginning to understand that this issue is not simply an [REDACTED] aberration, but something that is attacking our culture, the foundations of society.

Please get involved. Contact the [REDACTED] to [REDACTED] and find out who is working on this issue in your area. Get involved and tell your friends to get involved. Time is short.

The [REDACTED] is also primarily occupied with the [REDACTED] issue. Your President writes this month:

What a month! The [REDACTED] has been an emotional rollercoaster ride, specifically in the legislature. We've known since day one that the only way to prevent so-called [REDACTED] from becoming a reality here in [REDACTED] is to pass an amendment to the state constitution defining [REDACTED].

Each newsletter also solicits membership in and support for the [REDACTED] and offers various items that can be purchased to help fund your organization.

Section 501(c)(3) of the Internal Revenue Code provides, in part, that an organization is exempt from federal income tax if it is organized and operated exclusively for charitable and educational purposes, and if no substantial part of its activities is carrying on propaganda or otherwise attempting to influence legislation, and if it does not participate in, or intervene in (including the publishing or distributing of

statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 1.501(c)(3)-1(a) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

To satisfy the organizational requirements of section 1.501(c)(3)-1(b)(1)(i) and section 1.501(c)(3)-1(b)(4) of the regulations, an organization must limit its purposes to one or more exempt purposes and must dedicate its assets upon dissolution to exempt purposes. If the assets can be distributed to members upon dissolution, the organization does not satisfy these requirements.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(d)(2) of the regulations states that the term "charitable" is used in section 501(c)(3) in its generally accepted legal sense. The term includes the advancement of education.

Section 1.501(c)(3)-1(d)(3)(i) of the regulations provides that the term "educational" means the instruction or training of the individual for the purpose of improving or developing his capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community.

Section 1.501(c)(3)-1(c)(3)(i) of the regulations provides that an organization is not operated exclusively for one or more exempt purposes if it is an action organization.

Section 1.501(c)(3)-1(c)(3)(ii) of the regulations provides that an organization is an action organization if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise. For this purpose, an organization will be regarded as attempting to influence legislation if the organization:

- (a) contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting or opposing legislation; or
- (b) advocates the adoption or rejection of legislation.

The term "legislation," as used in this subdivision, includes action by the U.S. Congress, by any state legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure. An organization will not fail to meet the operational test merely because it advocates, as an insubstantial part of its activities, the adoption or rejection of legislation.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the taxpayer educated the public and local business about business fraud and the benefits of honest business practices. The Supreme Court found that such educational purposes were charitable and beneficial to the public, however, it also found that a substantial purpose was to promote a profitable business community. The Court held that "the presence of a single non-educational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes."

In Roberts Dairy Company v. Commissioner, 195 F. 2d 948 (8th Cir. 1952), cert. denied, 344 U.S. 865 (1952), the organization prepared and distributed materials to inform its members and the public of certain tax disparities between business organizations. The court held that since the ultimate objective was the revision of the tax laws, the organization was attempting to influence legislation.

In Christian Echoes National Ministry, Inc. v. United States, 470 F. 2d 849 (10th Cir. 1972), cert. denied, 414 U.S.

864 (1973), the court dismissed a claim that the creation of section 501(c)(3) limitations on lobbying and political activities was an unconstitutional restriction on the organization's freedom of speech. The court stated that the limitations "are clearly constitutionally justified in keeping with the separation and neutrality principles particularly applicable in this case and, more succinctly, the principle that the government shall not subsidize, directly or indirectly, those organizations whose substantial activities are directed toward the accomplishment of legislative goals or the election or defeat of particular candidates."

Rev. Rul. 62-71, 1962-1 C.B. 85, holds that an organization that, as its primary objective, advocates the adoption of a doctrine or theory which can become effective only by the enactment of legislation is not entitled to exemption from federal income tax. It is an action organization and not operated exclusively for educational purposes within the meaning of section 501(c)(3) of the Code.

Rev. Rul. 67-293, 1967-2 C.B. 185, holds that an organization substantially engaged in promoting legislation to protect or otherwise benefit animals is not exempt under section 501(c)(3) of the Code even though the legislation it advocates may be beneficial to the community.

Rev. Proc. 86-43, 1986-2 C.B. 729, sets forth the criteria used by the Service to determine the circumstances under which advocacy of a particular viewpoint or position by an organization is considered educational within the meaning of section 501(c)(3) of the Code.

Section 3.02 of Rev. Proc. 86-43 indicates that the Service will look to the method an organization uses to develop and present its views. Factors to be considered include:

1. Whether the presentation of viewpoints or positions is supported by fact.
2. Whether the facts that support the advocated viewpoint are distorted.
3. Whether the presentations make substantial use of inflammatory and disparaging terms and express conclusions more on the basis of strong emotional feelings than on objective evaluation.

4. Whether the approach used in the presentations is aimed at developing an understanding on the part of the intended audience.

The Service will look to all the facts and circumstances to determine whether an organization may be considered educational despite the presence of one or more of the above factors.

Your Articles of Incorporation do not satisfy the organizational requirements for exemption under section 501(c)(3) of the Code. Your purpose of transacting all lawful activities for which nonprofit corporations may be incorporated under [REDACTED] is broader than permitted under section 1.501(c)(3)-1(b)(1)(i) of the regulations. In addition, Article VIII of your Charter permits the distribution of your assets upon dissolution to your members, directors and officers and fails to satisfy section 1.501(c)(3)-1(b)(4) of the regulations.

In addition, you fail to satisfy the operational requirements for exemption under section 501(c)(3) of the Code. The submitted information establishes that your primary activity is the publication of [REDACTED]. Each of the [REDACTED] contains one or two columns of general information regarding [REDACTED] that may be "educational" within the meaning of section 1.501(c)(3)-1(d)(3)(i) of the regulations and Rev. Proc. 86-43. Most of the newsletter is devoted to the issue of [REDACTED] and how to stop it. A review of the information in the newsletters establishes that, for the most part, it is presented in a scholarly manner. However, no attempt has been made to present any information other than that which supports your views. In addition, you have, on occasion, resorted to inflammatory and disparaging terms and failed to support your positions with facts. On the whole, however, we conclude that the publication of your Bulletin is educational within the meaning of section 501(c)(3).

Notwithstanding our conclusion that the Bulletin may further education, it is clear from the information submitted that your primary purpose is not educational but legislative. Your goal is to pass a Constitutional Amendment to the U.S. Constitution and to the [REDACTED] that will [REDACTED]. There is currently specific legislation pending, [REDACTED] to achieve that result.



Based on the information you have submitted, we conclude that you are advocating and campaigning for Constitutional changes, as distinguished from merely engaging in non-partisan research and analysis. The history of the Code, regulations, and cases, establish the proposition that tax exemption under section 501(c)(3) is not intended to assist in the advancement of any particular political agenda. Therefore, the holdings of Rev. Rul. 62-71, and Rev. Rul. 67-293, are applicable to you and we conclude that you are an action organization. As such, you are not described in section 501(c)(3) and do not qualify for recognition of exemption.

You must file federal income tax returns on Form 1120 for all years you have been in existence.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key district office. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).